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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,262

10/22/2003

Eric M. Peterson

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HEWLETT-PACKARD COMPANY

Intellectual Property Administration

3404 E. Harmony Road

Mail Stop 35

FORT COLLINS, CO 80528

EXAMINER

JOO, JOSHUA

ART UNIT

PAPER NUMBER

2454

NOTIFICATION DATE

DELIVERY MODE

12/10/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM

ipa.mail@hp.com

laura.m.clark@hp.com

Office Action Summary	Application No. 10/691,262	Applicant(s) PETERSON ET AL.	
	Examiner JOSHUA JOO	Art Unit 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-8,10-13 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-8,10-13 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/22/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

This Office action is in response to Applicant's communication filed on 09/03/2009.

Claims 1-3, 6-8, 10-13, 16-20 are pending for examination.

Response to Arguments

Applicant's arguments with respect to claim 1-3, 6-8, 10-13, 16-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3, 16-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 1, Applicant is seeking to patent an analyzer comprising a client, server, and firewall. According to Applicant's specification, the server and firewall are intended as software (Paragraph 0010). The claimed server and firewall do not comprise any functional hardware. The claimed client also does not comprise any functional hardware and is considered as software. Therefore, the claimed invention of an analyzer is considered as software, and software does not meet one of the four categories of invention and is not statutory.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 12-13, 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a) Regarding claim 12, “the network usage query” has insufficient antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 6, 11-12, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanumgam et al. US Patent #7,032,022 (Shanumgam hereinafter), in view of Leonardos, US Patent #6,778,972 (Leonardos hereinafter).

As per claim 1, Shanumgam teaches substantially the invention as claimed including a network usage analyzer, comprising:

a network query client residing in a network (col. 7, lines 30-35. Administrator with computer.);
and

a network query server residing in a second network protected by a firewall (col. 6, lines 45-51. Server in network. col. 4, lines 34-36; col. 7, lines 6-11. Device controls access to network. Firewall.),
wherein said network query client is configured to send a query to the network query server related to how resources in the second network are used (col. 9, lines 1-9. Request usage information, i.e. VPN connections, VPN traffic, bandwidth. col. 19, lines 36-45. View specific times/resources.),

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wherein the network query server is configured to collect data related to how resources in the second network are used, and to send collected data to the network query client (fig. 7; col. 6, lines 51-57; col. 8, lines 55-67. Collect data, e.g. usage of resource. claims 10-13. Report includes usage of resource, type of service. col. 19, lines 30-35. Create log of usage.), and

wherein at least one query is formatted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism (col. 7, lines 35-46. Connect via HTTP.).

Shanumgam does not specifically teach the client residing in a first network, the client configured to send authentication information to the network query server, and the network query server configured to send authentication approval information to the network query client.

Leonardos teaches of a client residing in a first network and a server in a second network protected by a firewall, wherein the client is configured to send authentication information to the server, and the server is configured to send authentication approval information to the client (col. 5, line 66-col. 6, line 4; col. 8, line 49-col. 9, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to implement the client to reside in a first network, for the client to be configured to send authentication information to the network query server, and for the network query server to be configured to send authentication approval information to the network query client. The motivation for the suggested combination is that Leonardos' teachings would improve Shanumgam's teachings by enabling access to content from another network such as the Internet and protecting data on the server.

As per claim 6, Shanumgam teaches substantially the invention as claimed including a method for accessing information of resource usage in a first network, comprising:

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establishing a communication channel between a network query client residing in a network query server residing in the first network protected by a firewall (col. 7, lines 30-46. Connect to server. col. 4, lines 34-36; col. 7, lines 6-11. Device controls access to network. Firewall.);

sending, by the network query client, at least one network usage query (col. 9, lines 1-9. Request/view usage information.);

receiving, by the network query server, at least one network usage query from the network query client, the at least one query formatted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism (col. 7, lines 35-46. Connect to server via HTTP.);

collecting, by the network query server, information requested by the network usage query (col. 6, lines 51-57; col. 8, lines 55-67. Collect data, e.g. usage of resource. claims 10-13. Report includes usage of resource, type of service. col. 19, lines 30-35. Create log of usage.); and

sending by the network query server, the collected information to the network query client (fig. 7; col. 9, lines 1-10. Present usage information.).

Shanumgam does not specifically teach the client residing in a second network; sending, by the network query client, authenticating information to the network query server; and sending, by the network query server, authentication approval information to the network query client.

Leonardos teaches of a client residing in a second network and a server in a first network protected by a firewall, wherein the client sends authentication information to the server and the server sends authentication approval information to the client (col. 5, line 66-col. 6, line 4; col. 8, line 49-col. 9, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to implement the client to reside in a second network, for the client to send authentication information to the network query server, and for the network query server to send authentication approval information to the network query client. The motivation for the suggested

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combination is that Leonardos' teachings would improve Shanumgam's teachings by enabling access to content from another network such as the Internet and protecting data on the server.

As per claim 12, Shanumgam teaches substantially the invention as claimed including a method for accessing information of resource usage in a first network, comprising:

establishing a communication channel between a network query client residing in a network and a network query server residing in the first network protected by a firewall (col. 7, lines 30-46. Connect to server. col. 4, lines 34-36; col. 7, lines 6-11. Device controls access to network. Firewall.);

sending, by the network query client, at least one network configuration query to the network query server, the at least one query formatted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism (col. 7, lines 1-5, 35-46. Monitor configuration and aspects of devices. Connect to server via HTTP. col. 9, lines 1-9. Request/view usage information, e.g. VPN connections, connection type.);

collecting, by the network query server, network configuration information requested by the network usage query (col. 6, lines 49-55; col. 6, lines 51-57; col. 8, lines 55-67. Collect data. claims 10-13. Report includes usage of resource. col. 19, lines 30-35. Create log.);

receiving, by the network query client, information related to the network configuration query collected by the network query server; and sending, by the network query server, the collected network configuration information to the network query client (fig. 7; col. 9, lines 1-7; col. 10, lines 41-51. Present information to administrator.).

Shanumgam does not specifically teach the client residing in a second network; sending, by the network query client, authenticating information to the network query server; and sending, by the network query server, authentication approval information to the network query client;

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Leonardos teaches of a client residing in a second network and a server in a first network protected by a firewall, wherein the client sends authentication information to the server and the server sends authentication approval information to the client (col. 5, line 66-col. 6, line 4; col. 8, line 49-col. 9, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to implement the client to reside in a second network, for the client to send authentication information to the network query server, and for the network query server to send authentication approval information to the network query client. The motivation for the suggested combination is that Leonardos' teachings would improve Shanumgam's teachings by enabling access to content from another network such as the Internet and protecting data on the server.

As per claim 2, Shanumgam and Leonardos teach the network usage analyzer, as set forth in claim 1. Shanumgam teaches wherein the network query client and network query server are operable to communicate using a common protocol (col. 7, lines 35-46. Connect via HTTP.).

As per claim 11, Shanumgam and Leonardos teach the method, as set forth in claim 6. Shanumgam teaches the method further comprising receiving, by the network query server, network configuration information (col. 7, lines 1-5, 48-57; col. 9, lines 16-26. Define network configuration.).

As per claim 17, Shanumgam and Leonardos teach the network usage analyzer, as set forth in claim 1. Shanumgam teaches wherein the usage data comprises a metric measuring network usage levels based on at least one of geographical region, a time of day, a particular user, and a type of service plan (col. 9, lines 1-9; col. 19, lines 30-445. Current connections. Usage report based on users, services, time.).

As per claim 20, Shanumgam and Leonardos teach the method, as set forth in claim 12. Shanumgam teaches the method further comprising sending, by the network query client, at least one network usage query to the network query service, the at least one network usage query requesting a metric measuring network usage levels based on at least one of geographical region, a time of day, a particular user, and a type of service plan (col. 9, lines 1-9. Request usage information. col. 9, lines 1-9; col. 19, lines 30-445. Current connections. Usage report based on users, services, time.).

Claims 3, 7-8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanumgam and Leonardos, in view of Steele et al. US Patent #7,257,581 (Steele hereinafter).

As per claim 3, Shanumgam does not specifically teach the network usage analyzer, as set forth in claim 1, wherein the network query client and network query server are operable to communicate using Simple Object Access Protocol.

Steele teaches of a client and a server operable to communicate using Simple Object Access Protocol (col. 8, lines 10-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the network query client and network query server to be operable to communicate using Simple Object Access Protocol. The motivation for the suggested combination is that Steele's teachings would improve the suggested system by enabling communication using a protocol that requires minimal overhead and provides interoperability between different software.

As per claim 7, Shanumgam and Leonardos do not specifically teach the method, as set forth in claim 6, wherein establishing a communication channel comprises establishing a communication channel without reconfiguring the firewall.

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Steele teaches of establishing a communication channel without reconfiguring a firewall (col. 8, lines 10-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to establish a communication channel without reconfiguring a firewall. The motivation for the suggested combination is that Steele's teachings would improve the suggested system by reducing work in establishing a communication and enabling communication using a protocol that requires minimal overhead.

As per claim 8, Shanumgam does not specifically teach the method, as set forth in claim 6, wherein establishing a communication channel comprises establishing a communication channel using Simple Object Access Protocol.

Steele teaches of a client and a server operable to communicate using Simple Object Access Protocol (col. 8, lines 10-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the network query client and network query server to be operable to communicate using Simple Object Access Protocol. The motivation for the suggested combination is that Steele's teachings would improve the suggested system by enabling communication using a protocol that requires minimal overhead and provides interoperability between different software.

As per claim 13, Shanumgam does not specifically teach the method, as set forth in claim 12, wherein establishing a communication channel comprises establishing a communication channel using Simple Object Access Protocol.

Steele teaches of a client and a server operable to communicate using Simple Object Access Protocol (col. 8, lines 10-30).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the network query client and network query server to be operable to communicate using Simple Object Access Protocol. The motivation for the suggested combination is that Steele's teachings would improve the suggested system by enabling communication using a protocol that requires minimal overhead and provides interoperability between different software.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shanumgam and Leonardos, in view of Howard et al. US Patent #6,584,505 (Howard hereinafter).

As per claim 10, Shanumgam does not specifically teach the method, as set forth in claim 6, further comprising: periodically receiving, by the query server, authentication information from the network query client; and sending, by the network query server, authentication approval to the network query client in response to the periodically received authenticating information.

Howard teaches of periodically receiving, by a server, authentication information from a client; and sending, by the server, authentication approval to the client in response to the periodically received authenticating information (col. 6, lines 5-16, 66-col. 7, lines 16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to periodically receive, by a server, authentication information from a client; and send, by the server, authentication approval to the client in response to the periodically received authenticating information. The motivation for the suggested combination is that Howard's teachings would improve the suggested system by reducing the opportunity for unauthorized access to a server.

Claims 16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanumgam and Leonardos, in view of Shum, US Publication #2003/0009507 (Shum hereinafter).

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As per claim 16, Shanumgam does not specifically teach the network usage analyzer, as set forth in claim 1, wherein the network query client transforms the usage data into business information.

Shum teaches of transforming usage data into business information (Paragraphs 0046-0048. claim 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the network query client transforms the usage data into business information. The motivation for the suggested combination is that Shum's teachings would improve the suggested system by utilizing the data for performance management and planning business workflows.

As per claim 18, Shanumgam does not specifically teach the method as set forth in claim 6, further comprising, sending, by the network query server, the collected information to the network query client. Shanumgam does not specifically of sending in order to transform the collected information into business information.

Shum teaches of collecting information and transforming the collected information into business information (Paragraphs 0046-0048. claim 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the network query client transforms the collected information into business information. The motivation for the suggested combination is that Shum's teachings would improve the suggested system by utilizing the data for performance management and planning business workflows.

As per claim 19, Shanumgam does not specifically teach he method, as set forth in claim 12, further comprising transforming the usage data into business information.

Shum teaches of transforming usage data into business information (Paragraphs 0046-0048. claim 2).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the network query client transforms the usage data into business information. The motivation for the suggested combination is that Shum's teachings would improve the suggested system by utilizing the data for performance management and planning business workflows.

Conclusion

A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Friday 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/NATHAN FLYNN/
Supervisory Patent Examiner, Art Unit
2454

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/J. J./

Examiner, Art Unit 2454